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In the supreme court of the United States

Gordon McLean Campbell, Washington state

petitioner v. bar association,

respondent

On petition for writ of Certiorari to

the Supreme Court of Washington

Pettion for Writ of Certiorari

Gordon McLean Campbell,

petitioner

1514 Bellevue Avenue

#210

Seattle, Washington

98122

Questions presented for review

1. Whether the decision of the court below, based partly upon expert testimony, abridges petition's right to due process under the 14th amendment, U.S. constitution, since petitioner's petition to transfer active status in the respondent presents only legal issues which cannot be decided by expert testimony.

2. Whether the decision of the court below, denying petitioner's petition to transfer to active status, conflicts with the full employment and balanced growth act of 1978, 15 U. S. C., #1021 et seq., which grants every american a right to a job, since the holding by which petitioner was transferred inactive held there is no right to a job.

3. Whether the decision of the court below conflicts with petitioner's right to maintain political beliefs and theories granted by the 1st amendment right to assemble and petition, petitioner contending that guaranteed employment and use of the courts to enforce the right to a job are protected political beliefs and exposition of said beliefs.

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Citations of official reports

The opinion of the court below is reported in petition of Campbell (2001) 143 Wn.2nd 504, 21 P.3d 1147.

Jurisdiction

The opinion sought to be reviewed was filed May 3, 2001.

Jurisdiction in this court is based on 28 U. S. C. #1257.

Constitutional provisions and statutes

Article vi, #2, U. S. constitution

This Constitution, and the laws of the United States which shall be made in Persuance thereof; and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the land, and the Judges on every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

First amendment, U. S. constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the

press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourteenth amendment, U. S. constitution

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the priviledges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

15 U. S. C. #1021 (b)

The congress further declares and establishes as a national goal the fullfillment of the right to full opportunities for useful paid employment at fair rates of compenasation of all individuals able, willing and seeking work.

Statement of the case

Petitioner was transferred to the Inactive roll of attorneys in 1968. In re Campbell, 74 Wn.2nd 276, 444 P.2d 784. Petitioner was transferred inactive on the basis of suits he has brought seeking to enforce his constitutional right to a job in court.

Also included in the proceeding, although left completely out of consideration by the court in its decision, was petitioner's discovery of a new explanation for the movement of air according to which the air is alive, an intelligent form of life, God or part of God, blowing and moving of life as a human walks or runs of his own life and will.

This theory about the air was based on petitioner's personal experience of hearing the voice of God speak to him in oral, English words.

Before the state supeme court, petitioner supported his theory about the air with U. S. v. Ballard (1944) 322 U. S. 78, 64 S. Ct. 882, 88 L. Ed. 1148 in which the U. S. supreme court held that the contention that Jesus Christ came down to earth and spoke

to twentieth century humans was a valid religious belief and experience.

Petitioner, by the suits he had brought, had sought to enforce his constitutional right to a job pursuant to the right-remedy rule which states that a right without a remedy is no right at all. Marbury v. Madison (1803) I Cranch 137, 5 U. S. reports 137, 2L. Ed. 60.

Before the hearing panel, respondent used two witnesses to testify about petitioner's suits to obtain a job. One witness stated that he did not believe there is a right to a job. The other, judge Agnew of the lower court, stated that the right-remedy rule is a valid rule. When asked, he was, however, unable to answer whether the rule applies to the right to a job. Thus his position was that there is no right to a job.

The hearing panel, finding for respondent, therefore held there is no right to a job.

The state supreme court, affirming the hearing panel about using the courts to enforce the right to a

job, thusly held there is no right to a job.

The full employment and balanced growth act of 1978 gave every american a right to a job. 15 U. S. C. #1021 et seq..

15 U. S. C. #1021(b) is as follows:

> "The congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing and seeking work."

The number one plank in the democratic national platform in the pesidential campaign of 1976 was suing in U. S. district court to obtain a job. 1976 CQ almanac--855, 856; S. 50 (January 15, 1975), #2 and 5 (h); 121 Cong. Rec. 298-302. The democrats won the election.

On January 25, 1999, petitioner filed his petition to transfer to active status.
In the petition, he stated that In re Campbell, supra, holding there is no right to a job, was overruled by a subsequent federal statute, 15 U. S. C. #1021 et seq.,

which grants every american a right to a job. He also argued that the decision violates his right to maintain the political belief of guaranteed employment.

On November 29, 1999, the disciplinary board ordered that petitioner be evaluated by a doctor.

When the doctor's report was filed, petitioner filed petitioner's response to the report of the expert.

Page 1 of said response is as follows:

"Petitioner contends that the report of the expert herein should be struck from consideration and disregarded persuant to the rule that expert testimony cannot be used to show what the law is or should be.

The petition of Gordon McLean Campbell for transfer to active status in the washington bar association was based on a number of laws which, he contended, show that he is entitled to return to active status. The legal issues presented by his petition cannot be decided by expert testimony."

The board denied petitioner's petition relying

partly on the report of the expert.

Petitioner then filed a petition for review with the supreme court.

In the petition, he contended that the use of expert testimony by the board when only legal issues were presented, violated his right to due process given by the 14th ammendment, U. S. Constitution.

He also argued that the holding of In re Campbell, supra, had been overruled by 15 U. S. C. #1021 et seq..

He further maintained that the board's decision abridged his right under the 1st and 14th amendments to hold and expound the political belief of guaranteed employment.

The state supreme court denied petitioner's petition, basing its action partly on the testimony of the doctor.

Argument

I

Petitioner alledges that the holding of the court below, based partly on a doctor's testimony,

denies the petitioner due process granted by the 14th amendment since the use of this testimony conflicts with the rule that expert testimony cannot be used to show what the law is or ought to be.

Petitioner's petition to transfer to active status presents only legal issues rendering the doctor's testimony inadmissable.

In Roberts v. Cooper (1857) 61 U. S. 467, 20 Howard 467, 15 L Ed. 969, at 481, it is stated:

> "The first of these is an exception to the refusal of the court to permit the deposition of John Wilson to be read to the jury. This exception, though not waived, has not been much pressed, and cannot be supported. The deposition refers to no facts relevant to the issue. It tended to show that some of the officers of the land office and the attorney general had expressed opinions on the questions of law arising in this case, different from those expressed in the opinion of this court. The practice of the land office and the opinions of the attorney general may form very

persuasive arguements to the court, but cannot be read as evidence to the jury of what the law is, or ought to be. It is the province of the court to instruct the jury as to the principles of the law affecting the case, and counsel cannot appeal to the jury to dcide legal questions by reading cases to them, or giving in evidence the opinions of public officers."

Petitioner's petition to transfer to active status alleged that the holding in In re Campbell, supra, that there is no right to a job had been overruled by 15 U. S. C. #1021 et seq. which grants every american's right to a job.

The petition also alleged that the holding abridges his right to maintain the political belief of guaranteed employment.

These are legal issues which cannot be decided by expert testimony.

Therefore, the use of the doctor's testimony by the court below denied the petitioner due process of law.

II

The decision of the court below conflicts with the full employment and balanced growth act of 1978, 15 U. S. C. #1021 et seq., which grants every american a right to a job.

In Sperry v. state of Florida ex rel. Florida bar (1963) 373 U. S. 379, !0 L. Ed. 2nd 428, 83 S. Ct. 1322, it was held that a decision of the state supreme court of Florida holding that the handling of a patent applications by laymen constituted unauthorized practice of law was overruled by federal statute under the supremacy clause, the federal statute authorizing laymen to handle patent applications.

In In re Campbell, it was held that there is no right to a job. (statement of the case, pp. 3-5, supra)

The full employment and balanced growth act of 1978 gave every american a right to a job. 15 U. S. C. #1021 et seq..

15 U. S. C. #1021(b) reads as follows:

"The congress further declares and establishes as a national goal the fullfillment of the right to

full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking work."

Under the decision of Sperry, supra, this federal statute, conferring a right to a job, overrules In re Campbell holding there is no right to a job.

III

The decision of the court below conflicts with the petitioner's right to maintain and expound the political belief and theory of guaranteed employment.

In Elrod v. Burns (1976) 427 U. S. 347, 49 L. Ed. 2nd 547, 96 S. Ct. 2673, it was held that a person is entitled to maintain and expound political beliefs without the county restricting his effort to do so. In this case, the newly elected sheriff of cook county, Illinois fired or threatened to fire employees of his office who were republicans.

The right to hold political beliefs without infringement is granted by the right to assemble and petition section of the 1st amendment, U. S. constitu-

tion and made binding on states by the 14th amendment.

At 427 U. S. 372, the court said:

"We require only that the rights of every citizen to believe as he will and to act and associate according to his beliefs be free to continue as well.

In summary, patronage dismissals severely restrict political belief and association."

Guaranteed employment is a political belief and theory. The united states experienced guaranteed employment during the administration of president franklin d. roosevelt, the wpa. the pacific historian, volume 27 no. 4, winter 1983, the wpa project as humanistic experience, laurie huffman, p. 5.

The number one plank in the democratic national platform in the presidential campaign of 1976 was guaranteed employment. 1976 CQ almanac--855, 856. The democrats won the election.

Petitioner's suits, suing to obtain a job, were an exposition of the guaranteed employment plan.

This is show by the fact that in the 1976 presidential campaign, the number one democratic platform plank was suing in U. S. district court to obtain a job. 1976 CQ almanac--855, 856; S. 50 (January 15, 1975), #2 and 5(h); 121 Cong. rec. 298-302.

Thus, suing for a job is a political belief. As shown before, the 14th amendment forbids the state to abridge political beliefs.

The holding of the court below conflicts with petitioner's right to maintain political beliefs.

Gordon McLean Campbell

Petitioner

Washington state supreme court

Petition of Campbell

No. 68431-6

Entered May 3, 2001

Per Curiam--In 1968, this court held that Gordon M. Campbell was mentally incompetent to practice law. We, therefore, placed him on disability inactive status "until such time as he can establish that he is again mentally competent to practice law." In re Campbell, 74 Wn.2d 276, 444 P.2d 784 (1968). Since that time Campbell has sought, on several occasions, to obtain reinstatement to active status as a member of the Washington State Bar Association (WSBA). On each of these occasions, the Disciplinary Board of the WSBA (Board) has denied his petition for reinstatement.

When a lawyer has been transferred to disability inactive status, the lawyer may petition the Board for reinstatement. The disabled lawyer bears the burden of showing that the disability has been

removed, i. e., that the lawyer is now mentally competent to practice law. RLD 10.3(b). The Board must review the petition, but it may deny it without a hearing if it determines that the petition does not set forth a prima facie case for reinstatement. RLD 10.3(e)(4). A decision of the Board that is adverse to the petitioner may appealed to this court. RLD 10.3(g)

Campbell's most recent petition to the Board for reinstatement, and the one that has led to this appeal, was filed on January 25, 1999. After reviewing the petition, the Board dismissed it, without a hearing, based on its conclusion that Campbell failed to set forth facts showing that the disability has been removed. Campbell then appealed the Board's decision to this court. We have considered the appeal without argument pursuant to RLD 7.4 and RAP 11.6.

(1) After reviewing Campbell's petition, we conclude that the Board did not err in dismissing Campbell's petition. We reach this conclusion because Campbell has, as the Board determined,

failed to set forth in the petition a single fact demonstrating that his disability has been removed.

The Board's decision is further buttressed by the results of an independant mental evaluation of Campbell that was obtained by the Board in attempt to determine whether his disability has been removed. Although the Board was not required to obtain such an evaluation, 1 it wisely directed the evaluation of Campbell by Stephen R. Feldman, J. D., Ph.D. The report that was furnished to the Board contained Dr. Feldman's opinion that Campbell suffers from "DSM IV #279.1 Delusional Disorder" as well as conclusion that Campbell's mental health has not changed since 1968.

In light of the above, we affirm this decision of the Board. Our decision is, of course, without prejudice to Campbell to petition the Board for reinstatement in the event he is able to marshall evidence showing that he has regained the ability to practice law.

Affirmed.

1RLD 10.3(b) vests the Board with the power to direct that "an examination of the lawyer be conducted by a qualified expert" for the purpose of determining whether the disability has been removed. The Board is also empowered to take actions that it "deems necessary or proper to determine whether the disability has been removed." RLD 10.3(e)(2).